

# The Palestinian Peace Offer

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Great import has been attributed to the absence during the entire Camp David-Taba period of any Palestinian proposal that would have ended the conflict. It has been argued that while the Palestinians might have had legitimate problems with former Prime Minister Ehud Barak's offer, if they had been serious partners in the quest for peace, they would have come back with their own counter-offer.

When former Foreign Minister Shlomo Ben-Ami (Ha'aretz, September 14, 2001) was asked in a recent interview, "Didn't the Palestinians make a counterproposal?" he responded:

"No. And that is the heart of the matter. Never, in the negotiations between us and the Palestinian, was there a Palestinian counterproposal. There never was and there never will be."

What makes the Ben-Ami interview remarkable, is that Ben-Ami actually provides specific details of a Palestinian offer. True enough, it did not come with whistles and bells and a sign saying "Counter-Offer to End the Conflict." But it was clearly there. His failure to see it as a legitimate, even if politically untenable, proposal, tells us much more about Ben-Ami and the other Israeli negotiators than it does about the Palestinians.

The starting point is to recall the formal Palestinian position going into the negotiations. As far back as 1988, the Palestinians accepted the two-state solution. They not only reversed their position on the original 1947 Partition Resolution, but they accepted Resolution 242, which calls for a permanent peace and directs its attention to Israeli withdrawal from territory occupied as result of the 1967 war, but does not mention territory beyond the partition plan allocation that Israel acquired as a result of the 1948 war.

The Palestinian position on 242 is that it requires Israel to withdraw from all of the territories occupied as result of the war. This would require Israel to withdraw to the Green Line, and to relinquish all of East Jerusalem, including the Old City. As is well known, Resolution 242 was ambiguous, speaking only of withdrawal by Israel from "territories occupied in the recent conflict." It never says "all of the territories." The Palestinians bolster their position by pointing to the preamble of 242 which stresses "the inadmissibility of the acquisition of territory by war." But this is insufficient. There is no right answer as to what 242 requires - the ambiguity was deliberate. But the point is, the Palestinian opening position is not absurd. Indeed, given that Egypt and Jordan secured total withdrawal, the political necessity for Palestinians to at least aim at total withdrawal is quite predictable, even if unrealistic.

The second pillar of the Palestinian formal position was UN General Assembly Resolution 194, which "resolves that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date."

The resolution does not speak of a "right of return" but Palestinians, not surprisingly, claim that it established or expressed such a right. Moreover, they maintain that it applied to all of the descendants of the 1948 refugees. Here too, their position is not absurd, but if they were not prepared to compromise on the idea that millions of refugees would actually return, then they were not seriously engaged in an effort to negotiate an end the conflict.

Ben-Ami makes clear that the Palestinians moved in very fundamental ways away from these opening positions, despite their long held reluctance to relinquish what they see as the international law case for their claims. Specifically, here's what Ben-Ami has told us:

1. On territory, the Palestinians proposed that Israel should withdraw from 97.66 percent of the territory. This would allow Israel to annex areas that contain the majority of the settlers, even if less than the 80 percent of settlers that Clinton proposed. In exchange for the 2.36 percent annexed, there would be a territorial swap. Here the Palestinians wanted a one-for-one swap. Whether this Palestinian proposal asks too much of Israel's internal politics or not, it is a real counter-offer that abandons their view of 242, in order to allow Israel to mollify most of the settlers. Yes, what they propose squeezes the settlers quite hard, but in truth, they are more right than wrong. Israel should have never allowed the settlements and it is hard to see why the Palestinians should be more than minimally accommodating. As for their insistence on a one-for-one swap, this hardly seems unreasonable, even if unpleasant for Israelis to contemplate.

2. On Jerusalem, the Palestinians agreed that Israel would not have to withdraw from all of East Jerusalem, but would retain under Israeli sovereignty, all of the Jewish neighborhoods built since 1967 (such as Gilo). To Israelis this might not seem like much of a concession, but research into the attitudes of the Palestinian public (See *Negotiating Jerusalem*, by Segal, Levy, Katz and Said) shows that agreeing to Israeli sovereignty over the Jewish neighborhoods has been acceptable only to a minority of Palestinians. Most Palestinians are prepared to accept a different idea, that the Jewish neighborhoods be controlled by Israel, but under Palestinian sovereignty. Accepting Israeli sovereignty over a major part of East Jerusalem is a very clear concession from the Palestinian point of view, and is similar to what Clinton proposed.

3. With respect to the Old City, the Palestinians abandoned their demand for full Israeli withdrawal, and instead accepted that Israeli would be sovereign over the Jewish Quarter, including the Western Wall. The issue of the Armenian quarter remained unresolved, but clearly, the Palestinians were in a compromise mode.

4. With respect to the Temple Mount, the Palestinians retained their claim for Palestinian sovereignty, but were willing to enter a formal agreement that they would not excavate without Israeli agreement. This of course, represents a limitation on their sovereignty, and is very close to one of Clinton's formulations which affirmed "Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall, and shared functional sovereignty over the issue of excavation under the Haram and behind the Wall such that mutual consent would be required for any such activities." The Palestinians rejected the theoretical notion of "shared functional sovereignty" but in practice, accepted it.

5. On refugees, Ben-Ami is somewhat vague. The Palestinians, while insisting on the identification of return to Israel as one of the options open to refugees, appear to have accepted the principle that the actual return would be limited to a specific number. Ben-Ami is not sure of what numbers the Palestinians proposed, but mentions 150,000 per year for ten years. If this number is accurate, coming to a total of 1.5 million returnees, it is totally untenable. Ben-Ami indicates that Yossi Beilin responded with a total of 40,000. Clearly, they were far apart, but the principle that there is no unlimited right of return appears to have been conceded. This discussion of the size of the cap came very late in the day. We do not know if it could have been bridged. It is quite possible that even if the negotiations had gone on for several more months, this gap would not have been closed. But it is very likely that it would have been significantly narrowed, and that, in the end, the Palestinians would have settled for some substantial but not demographically impossible number.

In reflecting on whether the above constitutes a genuine counter-offer, it is important not to confuse that question with whether the Palestinian proposal was tenable within Israeli politics. Clearly it was not politically tenable. But then, the Israeli offer was probably untenable within Palestinian politics. We will never know whether continued negotiations would have lead to an agreement. But it is hard to see why the Palestinian proposal - one that allows most settlers to remain, allows Jewish neighborhoods to remain in East Jerusalem, accepts Israeli sovereignty over the Jewish quarter of the Old City and the Western Wall, agrees to an Israeli veto over excavation, and in principle accepts that the actual return to Israel cannot be unlimited - is somehow proof of Palestinian determination to destroy Israel.

The fact that this conclusion has been drawn, points to a continued problem in the mind set of many, the insistence that meeting the demands of Israeli politics is the criteria for judging whether a Palestinian proposal represents a genuine offer to end the conflict. The Israeli public would have been far better served if the Barak government had turned to Israelis and said: "Here is the price the Palestinians are asking for peace - we have rejected it because it is more than we are willing to pay."